

COMMISSION ON COMMON OWNERSHIP COMMUNITIES  
Minutes of the Monthly Meeting  
1401 Rockville Pike, 4<sup>th</sup> Floor, Rockville, MD 20850  
May 2, 2018

The monthly meeting of the Commission on Common Ownership Communities was called to order at 7:06 pm by Chairman Mark Fine

Commissioners present: BRANDA, BURROWS, ETHIER, FINE, FISHBEIN, GARDNER, GELFOUND, MAJERLE, VALLEY, VINEY, WINEGAR

Staff present: Walter Wilson, Associate County Attorney; Tim Goetzinger, Chief of Finance and Administration; Mark Anders

Guests: Don Dillin [Willoughby], Leah Tavens [Willoughby], Gabriel Manachi [Willoughby], John Palmisano [Whitley Park], David Churchill & Joan Churchill [Willoughby], Elvin Luskey [Arora Hills HOA], Olga Mancuso [Willoughby], Ossofino Moscati [Willoughby]

1. **Minutes approved:** Commissioner Majerle moved to approve the minutes of the April 4, 2018 monthly meeting as presented, Commissioner Fishbein seconded, approved by majority vote, Commissioners Branda & Winegar abstained.
2. **OPEN FORUM:** Don Dillin [Willoughby] asked for meeting minutes to be posted on our website. Commissioner Viney will investigate that. Mr. Dillin also asked about the status of being able to access and 'word-search' previous cases online. Commissioner Burrows said that was "in the works".

**3. Jurisdiction - Default Hearing cases:**

2018-064 Longmead v. Mazzengale: Architectural complaints, Respondent did not answer complaint; Commissioner Branda moved to **accept jurisdiction and refer the case to a Default Hearing**, Commissioner Valley seconding, approved by unanimous vote.

2018-048 Longmead v. Nguyen: Architectural complaint re un-authorized door color, Respondent did not answer complaint; Commissioner Majerle moved to **accept jurisdiction and refer the case to a Default Hearing**, Commissioner Fishbein seconding, approved by unanimous vote.

**4. Jurisdiction - Hearing Panel cases:**

2018-040 Dillin V. Willoughby and 2018-061 Nadri v. Willoughby: After consultation with Mr. Wilson, Associate County Attorney, Chairman Mark Fine replaced Panel Chair Birchman with Panel Chair Stevens on these cases.

2018-072 Tavens v. The Willoughby: Mediation was not attempted because of the automatic stay and the request for an expedited hearing due to the extenuating circumstances of the complaint. Commissioners discussed the need to encourage parties to attend mediation, while conceding that election cases should be expedited. Commissioner Majerle moved to **accept jurisdiction and refer the case to a hearing panel based on the failure of a governing body to properly conduct an election**, Commissioner Valley seconding, and approved by majority vote, Commissioner Fine abstaining.

2018-059 Luskey v. Arora Hills HOA: Mediation failed because Complainant did not accept the proffered solution. Commissioner Valley moved to **accept jurisdiction and refer the case to a hearing panel based on the authority of a governing body to require an action involving a unit**, with Commissioner Fishbein seconding, and approved by majority vote.

2018-058 Hernandez v. Damascus Gardens: Mediation failed as parties could not resolve the noise complaint. Associate County Attorney Wilson advised that the commission does not have jurisdiction over what he considers to be a neighbor-to-neighbor dispute. Discussion followed: Commissioner Gelfound asked if the board's actions were sufficient in light of the FHA "harassment" ruling [yes], and has the board taken sufficient actions, in good faith, to resolve the complaint [also yes]. Commissioner Gelfound moved **NOT to accept jurisdiction based on the exercise of the board's judgment or discretion in taking or deciding not to take any legally authorized action**, with Commissioner Viney seconding, and approved by majority vote, Commissioner Majerle abstaining.

2018-065 Longmead v. Bleu-Laine: Respondent did not answer Architectural complaint in time because he was out of the country. Mediation was then attempted but failed because of scheduling conflicts. Commissioner Gardner moved to **accept jurisdiction and refer the case to a hearing panel**, seconded by Commissioner Burrows, and approved by unanimous vote.

#### **COMMISSIONERS SHOULD SEND AVAILABLE DATES FOR JUNE PANELS TO MARK FINE.**

5. **D&Os Issued:** #38-16 Creitz v. Meadow Ridge Villas in Circuit Court. The CCOC ruling was upheld.
6. **D&O on Appeal:** none
7. **County Attorney's report:** Re #2018-050 Deer Park HOA v. Rudesh Ranade: Respondent filed for a temporary restraining order against the CCOC, alleging the Commission did not have authority to require mediation between the parties. The request was denied, based on a reading of the HOA Declaration.
8. **DHCA Staff report:** Monthly data reports are still unavailable, with some statistics still unconfirmed. Mediations through CRC [Conflict Resolution Center] are not generating good results, mostly because they don't know common ownership community law. Commission Chair will talk with Michael Land about more time. Legislative changes to 10B re mediation has been put on hold.
9. **Chair's report:**
  - Commissioner Mark Fine represented the CCOC by taking part in an FHA 50<sup>th</sup> Anniversary panel at the Silver Spring Civic Center, along with representatives from DHCA and the Landlord-Tenant Commission.
  - Financial disclosures must be filed on time or commissioners can be fined by the Ethics Commission.
  - Susan Koonin has resigned from the Commission.
  - Committee Chairs are reminded to send their written reports to Mark Fine at least 8 days in advance of Commission monthly meetings so they can be reviewed and included in the meeting packet.
  - Staff is short-handed again as Larita Carney will be out on medical leave for quite some time. Commissioners having business in the DHCA offices must have an appointment and/or be cleared by the Commission Chair, Mark Fine.
  - CE1's will be compiled and loaded onto the Team-Up calendar on the Monday prior to a hearing; other parties will be provided with a link. Mark Fine is the main contact for everything. No panel chairs may order transcripts of a hearing without approval from Mark Fine and/or Tim Goetzinger.

**10. Committee reports:**

Education Committee [Commissioner Viney, Chair]: Minutes of the last meeting included in packet.

- Round-table discussion on lay-commissioners' role and responsibilities as members of an administrative hearing panel has been postponed until later in the year when new commissioners and panel chairs are appointed.
- Committee has set a submission date of July 1 for *CCOC Communicator Newsletter* articles and committee reports, with a proposed publication date of August 1. Meanwhile, Peter Drymalski was approached about editing the newsletter. He agreed in principal but went on vacation.
- Committee approved putting an ad in the Montgomery County Bar Association Journal looking for volunteer panel chairs. Commissioner Fine added here that the Commission has received approval to solicit volunteer panel chairs from among attorneys at Virginia law firms who do not represent clients in front of the CCOC.

Legislative Committee [Commissioner Branda, Chair]: No report

Process & Procedures Committee [Commissioner Ethier, Chair]: Meeting to discuss the organizational flow chart for commission staff and complaint processes to be scheduled...

- 11. Old business: none
- 12. New business: none
- 13. Adjourned at 9:04pm

**Next meeting Wednesday, June 6, 2018 at 7:00pm**